

## **REMARKS**

### **I. Preliminary Remarks**

Applicants acknowledge with appreciation the withdrawal of the rejections of claims 1, 5, and 16 under 35 U.S.C. §102(e) as being anticipated by Pei et al. US 2004/0009956 as well as the withdrawal of the rejections 35 U.S.C. §102(b) of claims 1, 3-4, 11 and 16 over Bebbington WO 200200263.

Independent claims 1 and 7 have been amended to recite that the tripeptide or alkyl ester thereof is connected to a drug, and that the drug is connected to the tripeptide via the not terminal proteolytic enzyme cleavable amino acid moiety. Claim 7 is also amended to recite six specific tripeptides each of which comprise Phe as their central (not terminal) peptide. In addition since both claims 1 and 7 are amended to recite specific tripeptides the additional characterizing language therein is canceled. In addition, claim 8, depending from claim 7 is canceled because all the tripeptides mentioned in amended claim 7 comprise Phe as a central (not terminal) amino acid moiety thereof.

Dependent claim 16 is amended to confirm with claim 1 from which it depends and new claims 21 and 22 are submitted which recite the preferred tripeptides and alkyl esters thereof.

New claims 23 and 24 are submitted reciting methods of using the claimed tripeptides in therapy. These claims correspond to original claims 12 and 13 which were the subject of a restriction requirement but are believed to be allowable in light of the allowability of the pending claims from which they depend.

### **II. Outstanding Rejections**

Claims 7 and 8 stand rejected under 35 U.S.C. §102(e) as being anticipated by Pei et al. US 2004/0009956.

Claim 7 is stands rejected under 35 U.S.C. §102(b) as being anticipated by Bebbington WO 200200263.

Claims 7 and 8 stand rejected under 35 U.S.C. §112 (first paragraph) for lack of written descriptive support.

Claims 1-2, 6, 11, 16, 18 and 20 stand rejected under 35 U.S.C. §112 (second paragraph) as being indefinite.

### III. Patentability Arguments

#### A. The Rejection of Claim 7 Under 35 U.S.C. §102(e) over Pei et al. Should Be Withdrawn.

The rejection of claim 7 as being anticipated by Pei should be withdrawn in light of the amendment of claim 7 and because Pei discloses the reactive group being coupled to either the N-terminus or C-terminus of the tripeptide. As such, there is no anticipation of the presently claimed subject matter wherein the drug is linked through the central Phe peptide moiety of the tripeptide and the rejection of claim 7 should be withdrawn.

#### B. The Rejection of Claim 7 Under 35 U.S.C. §102(b) in view of Bebbington Should Be Withdrawn.

The rejection of claim 7 as being anticipated by Bebbington should be withdrawn in light of the amendment of claim 7 and because Bebbington discloses the reactive group being coupled to either the N-terminus or C-terminus of the tripeptide. As such, there is no anticipation of the presently claimed subject matter wherein the drug is linked through the central Phe peptide moiety of the tripeptide and the rejection of claim 7 should be withdrawn.

#### C. The Rejection of Claim 7 Under 35 U.S.C. §112 (first paragraph) for Lack of Written Descriptive Support Should Be Withdrawn.

The rejection of claim 7 under 35 USC §112 (first paragraph) as lacking sufficient written descriptive support should be withdrawn in light of the amendment of that claim to more particularly describe the preferred tripeptides.

#### D. The Rejections of Claims 1-2, 6, 11, 16, 18 and 20 stand rejected under 35 U.S.C. §112 (second paragraph) as being indefinite Should Be Withdrawn.

The indefiniteness rejection of claims 1-2, 6, 11, 16, 18 and 20 should be withdrawn in light of the amendment of claim 1 to delete the recitation of "said tripeptide comprising a not terminal proteolytic enzyme cleavable amino acid moiety that is connected to a drug." It is submitted that this clarifies any remaining uncertainty as to whether there exists an additional amino acid on the terminal end which would render the sequence a tetrapeptide. It is thus submitted that the rejection of claims 1-2, 6, 11, 16 and 20 may be withdrawn and that the claims may now be allowed.

### CONCLUSION

For the foregoing reasons, it is submitted that each of claims 1-2, 6-7, 11, 16, 18 and 20 should now be allowed. Should the Examiner wish to discuss any issues of form or substance, he/she is invited to contact the undersigned attorney at the number below.

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Respectfully submitted,

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